

Exhibit D

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

NO. D-202-CV-2017-05710

DIANA TORRES,

Plaintiff,

v.

LIFE INSURANCE COMPANY OF NORTH AMERICA,

Defendant.

**COMPLAINT FOR BAD FAITH, SPECIFIC PERMORMANCE AND DECLARATORY
JUDGMENT**

COMES NOW the Plaintiff, Diana Torres, and for her complaint against the Defendant states the following:

I. INTRODUCTION

1. Plaintiff Diana Torres, is a resident of Bernalillo County in the State of Mexico.

2. Upon information and belief, Defendant Life Insurance Company of North America is a foreign corporation and insurance company who provides disability insurance.

3. From the mid the 1980s until 2011 Plaintiff was employed by the University of New Mexico. During her employment with the University of New Mexico Plaintiff obtained and paid premiums for a disability insurance policy issued by Defendant.

4. On or about July 2011 Plaintiff stopped working after becoming disabled. Shortly thereafter, Defendant began paying Plaintiff long-term disability benefits each month.

5. On or about January 6, 2017 Defendant without justifiable cause terminated Plaintiff's long-term disability benefits.

6. Plaintiff objected to the termination of her long-term disability benefits by Defendant and filed an appeal with Defendant.

7. In her appeal to Defendant Plaintiff provided Defendant with updated medical records from her primary care physician and neurologist. Both Plaintiff's primary care physician and her neurologist found Plaintiff unable to return to work. Under the disability policy Plaintiff is considered disabled if she is unable to return to work.

8. After Plaintiff provided Defendant with her updated medical records which found her unable to return to work and therefore, disabled Defendant continued to deny Plaintiff her long-term disability benefits without justifiable cause. Defendant has purposefully and willfully failed to provide and pay Plaintiff her long-term disability benefits in accordance with the disability insurance policy and New Mexico law.

II. BAD FAITH

9. The allegations contained in paragraphs 1 through 8 are hereby incorporated by reference.

10. Plaintiff and Defendant entered into a disability insurance policy.

11. Under the terms of the insurance policy and New Mexico law Defendant has a duty to provide and pay Plaintiff long-term disability payments each month.

12. Defendant has willfully, intentionally and in bad faith failed to provide or pay long-term disability benefits in violation of the policy and New Mexico law.

WHEREFORE, the Plaintiff respectfully request a reasonable award of damages to compensate Plaintiff for her losses, prejudgment interest, post-judgment interest, costs of this action, attorney fees and for such other relief as the Court deems just and proper.

II. BREACH OF CONTRACT

13. The allegations contained in paragraphs 1 through 12 are hereby incorporated by reference.

14. Plaintiff and Defendant entered into a contract for long-term disability insurance.

15. Defendant breached the contract by failing to provide and/or pay Plaintiff long-term disability benefits.

16. As a direct and proximate cause of Defendant's breach, Plaintiff has been damaged.

WHEREFORE, the Plaintiff respectfully request a reasonable award of damages to compensate Plaintiffs for her losses, prejudgment interest, post-judgment interest, costs of this action, attorney fees and for such other relief as the Court deems just and proper.

III. BREACH OF THE DUTY OF GOOD FAITH AND FAIR DEALING

17. The allegations contained in paragraphs 1 through 16 are hereby incorporated by reference.

18. The duty of good faith and fair dealing is imputed in every contract in New Mexico regardless of its presence or absence in the actual document.

19. By virtue of its actions and omission in failing to provide or pay Plaintiff her long-term disability benefits Defendant breached the duty of good faith and fair dealing with Plaintiff.

20. As a direct and proximate result of Defendant's breach, Plaintiff has been damaged.

WHEREFORE, the Plaintiff respectfully request a reasonable award of damages to compensate Plaintiffs for her losses, prejudgment interest, post-judgment interest, costs of this action, attorney fees and for such other relief as the Court deems just and proper.

IV. VIOLATION OF THE UPA

21. The allegations contained in paragraphs 1 through 20 are hereby incorporated by reference.

22. Under the Unfair Trade Practices Act, NMSA 1978, § 57-12-1 New Mexico prohibits individuals and companies from engaging in unfair and deceptive trade practices against New Mexico consumers.

23. As a result of Defendant's conduct as described herein, Defendant has violated the Unfair Trade Practices Act under New Mexico law by engaging in unfair and deceptive trade practices.

24. As a direct and proximate result of Defendant's violation of the Unfair Trade Practices Act, Plaintiff has been damaged.

WHEREFORE, the Plaintiff respectfully request a reasonable award of damages to compensate Plaintiff for her losses, prejudgment interest, post-judgment interest, costs of this action, attorney fees and for such other relief as the Court deems just and proper.

IV. SPECIFIC PERFORMANCE AND DECLARATORY JUDGMENT

25. The allegations contained in paragraphs 1 through 24 are hereby incorporated by reference.

26. Under disability insurance policy and New Mexico law Defendant has a duty to provide and pay long-term disability benefits to Plaintiff.

27. As a result, the court should enforce Defendant's duty to provide and pay long-term disability benefits to Plaintiff.

WHEREFORE, the Court should issue a Declaratory Judgment that finds Defendant has a duty to provide and pay long-term disability benefits to Plaintiff. The Court should also make a reasonable award of damages to compensate Plaintiff for her losses, prejudgment interest, post-judgment interest, costs of this action, attorney fees and for such other relief as the Court deems just and proper.

V. PUNITIVE DAMAGES

28. The allegations contained in paragraphs 1 through 27 are hereby incorporated by reference.

29. By the conduct alleged above, the Defendant has engaged in malicious, willful, reckless and wanton conduct with utter indifference to and conscious disregard for the Plaintiff's health and welfare. This conduct justifies the imposition of punitive damages.

WHEREFORE, the Plaintiff respectfully requests that the Court award punitive damages against Defendant to punish Defendant and deter similar conduct in the future.

Respectfully submitted,

/s/ Richard R. Marquez
RICHARD R. MARQUEZ
Attorney for Plaintiff
1121 4th St. NW, Suite 1-A
Albuquerque, NM 87102
(505) 998-6600

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

NO. D-202-CV-2017-05710

DIANA TORRES,

Plaintiff,

v.

LIFE INSURANCE COMPANY OF NORTH AMERICA,

Defendant.

COURT-ANNEXED ARBITRATION CERTIFICATE

COMES NOW the Plaintiff(s), by through his/her/their counsel of record, Richard R. Marquez, pursuant to Second Judicial District Local Rules, Rule LR2-603, certifies as follows:

 This party seeks only a money judgment and the amount for each party sought does not exceed twenty-five thousand dollars (\$25,000.00) exclusive of punitive damages, interest, costs and attorneys fees.

 XXX This party seeks relief other than a money judgment and/or seeks relief in excess of twenty-five thousand dollars (\$25,000) exclusive of punitive damages, interest, costs and attorney fees.

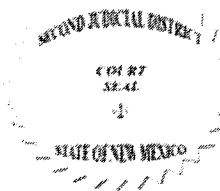
Respectfully submitted,

/s/ Richard R. Marquez
RICHARD R. MARQUEZ
Attorney for Plaintiff
1121 4th St. NW, Suite 1-A
Albuquerque, NM 87102
(505) 998-6600

SUMMONS	
District Court: Second Judicial Bernalillo County, New Mexico Court Address: 400 Lomas NW Albuquerque, New Mexico 87102 Court Telephone No.: 505-841-7451	Case Number: D-202-CV-2017-05710 Assigned Judge: Victor S. Lopez
Plaintiff(s): Diana Torres v. Defendant(s): Life Insurance Company of North America	Defendant: Name: Life Insurance Company of North America Address: c/o Superintendent of Insurance 325 Don Gaspar, Suite 300 Santa Fe, NM 87501

TO THE ABOVE NAMED DEFENDANT(S): Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
 2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
 3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
 4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
 5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
 6. If you need an interpreter, you must ask for one in writing.
 7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.
- Dated at _____, New Mexico, this ____ day of 8/9/2017, 20____.



JAMES A. NOEL
CLERK OF THE DISTRICT COURT

By: _____

Cathy Chavez, Deputy

/s/ Richard R. Marquez

Richard R. Marquez
Attorney for Plaintiff
1121 4th St. NW, Suite 1-A
Albuquerque, NM 87102
505-998-6600
505-998-6603 (fax)
marquezlaw@comcast.net

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO
RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN¹

STATE OF NEW MEXICO)
)ss
COUNTY OF _____)

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in _____ county on the _____ day of _____, _____, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

☐ to the defendant _____ (*used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint*)

☐ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (*used when service is by mail or commercial courier service*).

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, (*used when the defendant is not presently at place of abode*) and by mailing by first class mail to the defendant at _____ (*insert defendant's last known mailing address*) a copy of the summons and complaint.

☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ (*insert defendant's business address*) and by mailing the summons and complaint by first class mail to the defendant at _____ (*insert defendant's last known mailing address*).

☐ to _____, an agent authorized to receive service of process for defendant _____.

☐ to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant _____ (*used when defendant is a minor or an incompetent person*).

[] to _____ (*name of person*), _____, (*title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision*).

Fees: _____

Signature of person making service

Title (*if any*)

Subscribed and sworn to before me this _____ day of _____, _____

Judge, notary or other officer
authorized to administer oaths

Official title

SECOND JUDICIAL DISTRICT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

DIANA TORRES,

Case No. D-202-CV-2017-05710

Plaintiff,

v.

LIFE INSURANCE COMPANY OF
NORTH AMERICA,

Defendants.

NOTICE OF CHANGE OF FIRM CONTACT INFORMATION

Please take notice that effective October 2, 2017, attorney Kristina N. Holmstrom, counsel for the defendant, has a new law firm and all contact information should be updated as follows:

Kristina N. Holmstrom
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
Esplanade Center III, Suite 800
2415 East Camelback Road
Phoenix, AZ 85016
Telephone: 602-778-3700
Fax: 602-778-3750
Email: Kristina.Holmstrom@Ogletree.Com

DATED this 23rd day of October, 2017.

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

By: /s/ Kristina N. Holmstrom
Kristina N. Holmstrom
2415 East Camelback Road, Suite 800
Phoenix, Arizona 85016
Attorneys for Hartford Insurance Company

I hereby certify that on October 23, 2017
I filed the foregoing electronically through
the Odyssey File & Serve system, which caused
the following parties to be served by electronic
means and via U.S. mail, as per the Notice of
Electronic Filing:

Richard R. Marquez
1121 4th Street N.W., Suite 1-A
Albuquerque, NM 87102

Attorneys for Plaintiff

s/ Hope L. Hendricks

Hope L. Hendricks